



## Venezuela

### Country Reports on Human Rights Practices - [2001](#)

Released by the Bureau of Democracy, Human Rights, and Labor

March 4, 2002

Venezuela is a democratic republic with a freely elected president and unicameral legislature. In addition to the executive, legislative, and judicial branches of government, the 1999 Constitution provides for a "Citizen Power" branch of government—which includes the Ombudsman, the Public Prosecutor, and the Controller General—and an "Electoral Power" branch, the National Electoral Council (CNE). In July 2000, following a long and controversial process, voters elected President Hugo Chavez of the Fifth Republic Movement (MVR) in generally free and fair national and local elections. The MVR also won 92 seats in the 165-member legislature. In December 2000, the National Assembly appointed members of the Citizen Power and judiciary in a manner that many observers criticized as unconstitutional. The civilian judiciary is legally independent; however, it is highly inefficient and sometimes corrupt, and judges are subject to influence from a number of sources, including the executive branch.

The security apparatus includes civilian and military elements, both accountable to elected authorities. The Interior and Justice Ministry controls the Technical Judicial Police (PTJ), which conducts most criminal investigations, and the State Security Police (DISIP), which is primarily responsible for investigating cases of corruption, subversion, and arms trafficking. The Defense Ministry controls the General Directorate for Military Intelligence (DIM), which is responsible for collecting intelligence related to national security and sovereignty. The National Guard, an active branch of the military, has arrest powers and is largely responsible for maintaining public order, guarding the exterior of key government installations and prisons, conducting counternarcotics operations, monitoring borders, and providing law enforcement in remote areas. It also supplies the top leadership for various state and municipal police forces, which fall under the authority of the respective state governors or municipal mayors. The Metropolitan Police is the main civilian police force in and around Caracas. In February President Chavez appointed the country's first-ever civilian Defense Minister, Jose Vicente Rangel. There continued to be concern during the year regarding the use of the armed forces in traditionally nonmilitary roles in government and society, including the appointment of active and retired military officers to high-ranking government positions. Three of the 14 members of the President's Cabinet are either active or retired career military officers, as are the presidents of the major state-owned corporations Petroleos de Venezuela, Corporacion Venezolana de Guyana, and CITGO. There are also a number of military officers in high- and mid-ranking positions in government agencies responsible for social development, public works, and finance. The military is involved heavily with public service projects. While civilian authorities generally maintain effective control over security forces, some members of the police and military committed serious human rights abuses.

The country has a population of approximately 24.5 million. There are abundant natural resources, and per capita gross domestic product (GDP) was \$4,980. However, income is distributed unevenly, with approximately 80 percent of the population living at or below the 2000 poverty line of \$1,986 per capita. Oil accounted for 30 percent of GDP, 50 percent of government revenues, and 75 percent of exports in 2000. Natural resources dominate nonoil exports, with some basic refining. Iron, aluminum, steel, and petrochemical products together comprise nearly half of the nonoil exports. The vast majority of all natural resource extraction and production is done by entities owned and operated wholly or in part by the Government. Following an economic contraction in 1999, the economy recovered in 2000 with growth of 3.2 percent, influenced by a strong recovery in global oil prices. GDP grew 2.7 percent during the year.

There were improvements in some human rights areas during the year; however, the Government's human rights record remained poor or worsened in other areas where there traditionally have been serious problems. In addition, problems arose in human rights areas that traditionally have not been of concern. The police and military committed extrajudicial killings of criminal suspects at an increased rate. The majority of these killings were attributed to state and local police forces that have little training or supervision. Police also were accused

of having links to a vigilante "death squad" responsible for dozens of killings in one state. Excessive use of deadly force by police and security forces continued to be a serious problem. The pace of investigations into the forced disappearances of criminal suspects by the security forces remained extremely slow. Torture and abuse of detainees persisted, and the Government failed to punish police and security officers guilty of abuses. Severe overcrowding in prisons continued to decrease; however, general prison conditions remained harsh due to underfunding, poorly trained and corrupt staff, and violence and overcrowding in some prisons so severe as to constitute inhuman and degrading treatment. Arbitrary arrests and detentions decreased. Lengthy pretrial detention and corruption and severe inefficiency in the judicial and law enforcement systems also were problems.

The Government continued to struggle to implement the 1999 Organic Criminal Procedures Code (COPP), which requires a shift from a secretive inquisitorial system to an open adversarial system, and in November the National Assembly approved reforms to the COPP. However, the law's implementation continued to result in human rights improvements, including an ongoing reduction in the number of prisoners not convicted of a crime. The authorities continued to replace judges for incompetence or corruption, and overall judicial reform proceeded. However, the slow pace at which judges were replaced via competitive examinations meant that as of August, 90 percent of judges in the country were temporary. The 1999 Constitution established civilian trials for soldiers accused of human rights abuses, and this provision passed its first major test with the Siccat case, involving an officer convicted of murdering a fellow soldier. Security forces continued to commit illegal searches.

Concern over freedom of expression increased significantly, due in part to a June Supreme Court ruling that could limit press freedom and an October 2000 decree from the Ministry of Education that could allow state interference in private schools. Some critics charged that the Government intimidated the media, and self-censorship reportedly was widespread. Concern over freedom of association remained high and increased among human rights organizations, due to a November 2000 Supreme Court ruling that could limit the legal rights of some associations. The Government ignored some refugees or described them as "displaced persons in transit," restricting their ability to request asylum. However, in August the National Assembly approved a law on refuge and asylum designed to broaden refugees' rights and improve their treatment. Human rights organizations continued to object to the way the national Human Rights Ombudsman was chosen and complained that the office has acted on few cases brought before it. Violence and discrimination against women, abuse of children, discrimination against persons with disabilities, and inadequate protection of the rights of indigenous people remained problems. Although concern over labor rights remained, the atmosphere for independent labor unions improved significantly. Child labor persisted. There were reports that the country was a source, destination, and transit country for trafficked persons, although the Government took steps to reduce corruption among immigration authorities. Killings due to vigilante actions increased.

## RESPECT FOR HUMAN RIGHTS

### Section 1 Respect for the Integrity of the Person, Including Freedom From:

#### a. Arbitrary or Unlawful Deprivation of Life

There were no reports of targeted political killings; however, the security forces continued to commit extrajudicial killings, primarily of criminal suspects, at increased levels. The Venezuelan Program of Action and Education in Human Rights (PROVEA), a respected human rights nongovernmental organization (NGO), documented 241 extrajudicial killings from October 2000 through September, compared with 170 killings from October 1999 to September 2000. The killings included summary executions of criminal suspects and deaths resulting from mistreatment while in custody. The indiscriminate or excessive use of force also was documented. PROVEA attributes the following responsibility for extrajudicial killings: state police forces other than the Metropolitan Police (189); the Metropolitan Police (2); the PTJ (12); the National Guard (8); municipal police forces (20); the army (2); the DISIP (2); other security forces (2); and two or more security forces (4). These figures reflect a range of killings in different situations committed by organizations with varying levels of control and responsibilities. Police continued to fire on criminal suspects who disobey orders to halt.

The perpetrators of extrajudicial killings act with near impunity, since the Government rarely prosecutes such cases. The police often fail to investigate crimes allegedly committed by their colleagues and characterize incidents of extrajudicial killings as "confrontations," even when eyewitness testimony and evidence strongly indicate otherwise. In addition, the civilian judicial system still is struggling to implement the 1999 COPP and, in the meantime, remains highly inefficient and sometimes corrupt (see Section 1.e.). In the small number of cases in which the courts convict perpetrators of extrajudicial killings and other abuses, the sentences issued frequently are light, or the convictions are overturned on appeal. Unlike common criminals, members of the security forces charged with or convicted of crimes rarely spend much time in prison.

Federal and state police are investigating the so-called "Grupo Exterminio," a vigilante "death squad" with apparent police ties that is accused of up to 100 killings between mid-2000 and September 2001 in the cities of Acarigua and Araure, Portuguesa state. After investigation began in May, two witnesses also were killed, and judges and public prosecutors received death threats. A total of 42 state police officers are suspected of having ties to the Grupo Exterminio, and the authorities have arrested 18 officers. In late December, the press reported another extermination group emerging in Portuguesa. Investigators believe that the group is made up of active and former police as well as private "hit men." An anonymous member of the group gave a newspaper interview on June 4 in which he acknowledged the group's existence and described it as being made up of "decent citizens doing what they have to do" to fight rising crime. He claimed that the group has targeted only "criminals with lengthy records" and claimed that it is responsible for only half the killings attributed to it. In May the group published a pamphlet that blamed the COPP for the rise in crime that led it to act and claimed that the group will not stop until the COPP is repealed. The National Guard took over police duties in Portuguesa state pending the outcome of investigations of the extermination group.

On January 10, army Lieutenant Alessandro Siccat sprayed and ignited paint thinner in the holding cell of three allegedly disobedient soldiers. Two men were burned seriously; a third, Jesus Alberto Febres, died as a result of burns 20 days later. A military court convicted Siccat; however, in a test of the constitutional provision that trials for military personnel charged with human rights abuses would be held in civilian courts, the Attorney General appealed, and in October the Supreme Court granted a civilian court jurisdiction (see Section 1.e.).

The majority of extrajudicial killings by security forces were attributed to state and municipal police forces that report to local officials and often have little training or supervision. For example, on January 7, the Trujillo state police bound, shot, and killed 17-year-old Luis Fernando Briceno, according to the human rights NGO Red de Apoyo. Briceno was walking home from a friend's residence in Valera City when a police patrol stopped him. According to witnesses, police tied Briceno's hands with a cloth and walked him to a side street, where several shots were heard. There was no known investigation.

Red de Apoyo reported that on February 2, in Casigua el Cubo, Zulia state, security forces killed 44-year-old Angel Ardilla when they fired at his vehicle without provocation. Ardilla was seated in his truck with Alba Marina Bustamante, who was injured in the incident, when an army troop patrol approached the vehicle, which stood stationary with its engine off. Without warning, the patrol opened fire. Army members later attempted to force Bustamante to declare that Ardilla had tried to kidnap and rape her. There was no investigation.

On May 31, Caracas Metropolitan Police shot and killed 16-year-old Ericson Jose Parra in the Petare neighborhood. Parra was leaving the home of an acquaintance when a plainclothes policeman stopped him and shot him in the leg without justification. Parra ran to the home of a friend, where two police entered and forced the family residing there to leave. Police then took Parra away in a patrol car and later informed his family that he was dead. There was no investigation.

On June 22, in San Antonio, Tachira state, members of the PTJ shot and killed 19-year-old Juan Pablo Arroyave. Arroyave and three relatives were driving home when PTJ officials stopped their car and violently forced them to get out. When the car began to roll away, the police told Arroyave to engage its hand brake. When Arroyave reached for the brake, police shot him. There was no investigation.

There were no new developments in the official investigation into the June 2000 killings by the Caracas Metropolitan Police of Ronny Tovar, age 17, Francisco Mister, age 14, and Luis Hernandez, age 21. Police arrested the three in their homes, and witnesses heard shots and saw their bodies being taken from the scene in a police vehicle. The bodies were recovered later.

An official investigation concluded during the year in the April 2000 shooting of Guillermina Colmenares by the Metropolitan Police; however, as of September, no charges had been filed. Colmenares was killed when police fired at a group of persons who had just seen them shoot and kill a suspected criminal. The police tortured witness Donis Ramirez and, in late December, threatened another witness, according to the human rights group Support Network (see Section 1.c.).

There were no developments in the investigation into the January 2000 detention by Yaracuy state police of Jaime Hilarion and Richard Lucambio on a street in San Felipe city. Hilarion's and Lucambio's bodies were found 5 days later on a river bed and a highway, respectively.

An official investigation continued slowly during the year into the June 1999 death of Jhon Linares, who was detained by the Metropolitan Police and later was found dead at the hospital as a result of bullet wounds. There were no prosecutions, and none appear likely, in the February 1999 death of Oswaldo Blanco due to abuse by the National Guard.

There were no new developments, and none appear likely, in the on-going trial of a Sucre state police officer for the February 1999 death of Angel Castillo Munoz. Castillo died when state police broke up a peaceful student demonstration; he was hit in the head by a rubber bullet and fell unconscious into an area saturated by tear gas. Police reportedly continued to fire on the demonstrators, despite students' attempts to surrender, thus delaying medical care to injured students.

There were also no developments, and none appear likely, in the appeal by the prosecution of a 1999 court decision to exonerate a PTJ member implicated in the 1995 execution-style killing of 21-year-old Hector Rojas, despite evidence of the officer's guilt.

PROVEA reported a pattern of extrajudicial killings in the states of Barinas (32 such deaths between January 2000 and June 2001) and Zulia (where 43 persons died in "clashes" with police in the first 4 months of the year). On October 15, Human Rights Ombudsman German Mundarain called for "urgent intervention" by the federal government into the operations of state-level police in six states, in response to what he termed increasing numbers of extrajudicial killings that may have police connections. He expressed concern regarding reports of killings and forced disappearances in Portuguesa, Bolivar, Aragua, Yaracuy, Anzoategui, and Miranda states. According to the Public Ministry, there have been 239 cases of killings or forced disappearances in 18 of the country's 23 states since the beginning of 2000.

Security forces also killed some prisoners; however, the majority of the inmate deaths during the year resulted from gang confrontations, riots, fires, and generally unsanitary and unsafe conditions in prison facilities (see Section 1.c.).

The authorities continued slowly to investigate allegations of human rights violations by the military and security forces sent to Vargas state in December 1999. The forces were sent to restore order after an outbreak of looting following flooding and landslides that killed an estimated 20,000 persons. Witnesses claim that military and security forces beat, detained, and killed alleged criminal suspects and other individuals between December 19 and December 25 (see Sections 1.b., 1.d., and 4). Four disappearance cases from the same period in Vargas also are being investigated slowly (see Section 1.b.).

In June the NGO Committee of Family Members of Victims of the Unrest (COFAVIC) called for the removal of the Government's representative in the cases relating to the civil unrest of February-March 1989, in which security forces allegedly committed some 300 extrajudicial killings. The COFAVIC had referred a total of 45 cases to the Inter-American Commission on Human Rights (IACHR) in 1995. In November 1999, before the IACHR, the Government accepted responsibility in 44 killings. The Government also agreed to compensate the families of the victims and to punish those responsible; however, there remained considerable disagreement regarding compensation. During the year, human rights activists criticized the Government for moving slowly and questioned whether it was negotiating in good faith. In 1991 a police officer was found guilty of one killing, but the courts released the officer from prison 1 year later. In 1997 the IACHR called on the Government to investigate this case, provide compensation to the victim's family, and bring to justice those responsible for the death. The Government investigated and made a payment in 2000, but at year's end, it still had not punished any of those responsible.

Mob lynchings of supposed criminals increased due to the public's frustration with rising crime. The victims were almost always known criminals who preyed on residents of poor neighborhoods. Between October 2000 and September, PROVEA recorded 63 lynchings and 102 attempted lynchings, compared to 22 lynchings and 107 attempted lynchings between October 1999 and September 2000. Unlike the previous year, there were no reports during the year of lynchings by vigilante groups known as "brigadas."

#### b. Disappearance

The 1999 Constitution prohibits forced disappearance, and there were no reports of politically motivated disappearances during the year. The Constitution also states that an individual must refuse to obey an order to commit such a crime, and provides for the prosecution of the intellectual author of the crime.

Government agents are suspected in the forced disappearances of alleged criminal suspects and other individuals in Vargas state during a crackdown on looters following flooding in December 1999. On September 14, the Attorney General announced that formal charges had been filed against two DISIP agents in a Vargas court. DISIP Commissioner Jose Yanez Casimiro and since-retired Commissioner General Justiniano Martinez Carreno face charges in the December 1999 disappearances of Oscar Blanco Romero and Marco Monasterio, who were arrested separately by army paratroopers without explanation in their homes in Caraballeda, Vargas state. The army has stated that it immediately turned the two men over to the DISIP. The DISIP first claimed that it had no agents in the area at the time, and then reversed itself but stated that it did not have Blanco and Monasterio in detention. Casimiro is accused of being responsible for the disappearances and Carreno is

accused of covering them up; neither man had been arrested by year's end.

Also on December 21, 1999, army paratroopers beat and arrested Jose Rivas Fernandez on a street in Caraballeda. The army stated that it did not detain Rivas. On December 23, 1999, DISIP agents seized Roberto Hernandez Paz in La Guaira, Vargas state. Hernandez's uncle heard him plead to the agents and heard a gunshot in the family's garden. Neighbors witnessed the injured victim being placed in a DISIP vehicle and driven away. The DISIP stated that it did not arrest Hernandez. Neither of these missing individuals has been located.

The Government's investigation of these cases has been extremely slow and disorganized. Charges have been filed in only one case, and the Government has been unable to compel the cooperation of the DISIP. The investigating team was changed three times in 2000, with each new team starting an inquiry afresh. During the year, human rights groups continued to ask that obstruction of justice charges be brought against the DISIP to force it to cooperate. In July the Supreme Court granted a habeas corpus writ filed on behalf of Hernandez and ordered the prosecutor to renew investigations into his disappearance.

There are reports that Colombian guerrillas kidnap persons for extortion. According to the National Federation of Cattlemen, at year's end, Colombian guerrillas still held 18 of the 24 landowners whom they kidnaped in 1999.

#### c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution prohibits torture and the holding of detainees incommunicado, provides for the prosecution of officials who instigate or tolerate torture, and grants victims the right to medical rehabilitation. Under the 1999 COPP, detainees have the right to a judicial determination of the legality of their detention within 3 days--a reduction from the previous 8-day period that human rights groups argued was the principal time during which detainees were tortured (see Section 1.d.). However, security forces continued to torture and abuse detainees physically and psychologically. This abuse most commonly consisted of beatings during arrest or interrogation, but there also were incidents in which the security forces used near-suffocation and other forms of torture that left no telltale signs. Most victims came from the poorest and least influential parts of society.

PROVEA documented 340 cases of torture, beatings, and other abuse from October 2000 through September (affecting 577 victims), compared with 429 cases from October 1999 through September 2000 (affecting 527 victims). PROVEA attributes responsibility for the reported incidents as follows: state police forces, 277; the armed forces, including the National Guard, 115; Caracas Metropolitan Police, 50; other municipal police forces, 98; the Technical Juridical Police, 26; and the DISIP intelligence service, 11. In 1999 human rights NGO's presented a report to the U.N. Committee Against Torture in which they documented 120 torture cases since 1987 that they have reported to the Government but that still have not been investigated fully; there is no indication of Government follow-up to this report.

Torture, like extrajudicial killings, continues because the Government does not ensure independent investigation of complaints, a needed step to bring those responsible to justice. In addition to the judiciary's lack of vigor, the Institute of Forensic Medicine is part of the PTJ. This contributes to a climate of impunity, since its doctors are unlikely to be impartial in their examinations of cases that involve torture by members of the PTJ. Very few cases of torture have resulted in convictions.

Cases of torture occur under a variety of circumstances. For example, on February 17, Carabobo state police beat and extorted money from 22-year-old Elio Centeno and three friends, according to Red de Apoyo. The group was seated in a parked car when police demanded to see their identification documents and obliged them to board a patrol car. When the group asked why they were being detained, police beat them, took them to a police station, and demanded \$7 (5,000 bolivars) each for their release. When Centeno and his friends refused to pay, police beat them again. The four were released the next day after each paid \$11 (8,000 bolivars) to the police. There was no known investigation.

On May 18, National Guard members in San Cristobal, Tachira state, beat William Ferrer and Arturo Teran. The two were seated in a liquor store when a National Guard patrol stopped and demanded their identification. Before Ferrer could stand up to provide his identification card, a Guard member beat him. When Teran protested Ferrer's treatment, another Guard member dragged him out of the store by the neck and beat him as well. There was no known investigation.

An official investigation in the case of Donis Ramirez, who was tortured in April 2000 by the Caracas Metropolitan Police and threatened with death if she spoke to other authorities, concluded during the year; however, no charges were filed by year's end. Ramirez had seen the police fire at a group of individuals who

had just witnessed them shoot and kill a suspected criminal. Another witness, Guillermina Colmenares, was killed in the incident (see Section 1.a.). In late December, the police reportedly threatened a third witness.

An official investigation continued during the year into the case of Jose Matheus, who was arrested in his home in March 2000, by Zulia state police and accused by police of involvement in a kidnapping. The police held Matheus incommunicado for 11 days, beat him severely, and tortured him psychologically.

There were no new developments, and none appear likely, in the August 1999 case of torture of Juan de la Cruz Bravo by the PTJ in Guasdalito, Apure state, or in the June 1999 beating of Andres Flores by the Metropolitan Police.

An official investigation concluded, and charges against members of the military were dismissed during the year for lack of evidence, in the 1995 case in Cararabo, Apure state, in which the military killed or tortured 23 rural workers in response to an attack by Colombian guerrillas. Three members of the military spent 5 years in jail or under house arrest until they were released at the conclusion of the investigation. There were no new developments in the 1995 case in La Victoria, Apure state, in which 19 peasant farmers were tortured or killed by military members reacting to a guerrilla attack.

According to indigenous activists in Amazonas state, on April 17, a member of the Bare indigenous people was left paralyzed when a member of the National Guard shot him without provocation. Julian Rivas was traveling by boat along the Orinoco River with his brother Juan when he was shot repeatedly in the back. The National Guard later claimed that the shooting was accidental. There was no known investigation.

In October two landowners and several squatters were badly injured, and a teenage boy was left in a coma as police and the National Guard tried to evict invaders from a private property in Machiques, Zulia.

Metropolitan Police used tear gas against protesters at the National Assembly on November 22 and against marchers on December 7 (see Section 2.b.). There were no reports of excessive use of force in these incidents.

General prison conditions continued to be harsh due to underfunding, poorly trained and corrupt prison staff, and violence by guards and inmates. Due to the implementation of the COPP, the prison population decreased to 84 percent of capacity in 2000, the last year for which statistics are available. Conditions in some prisons became more humane and manageable during the year as overcrowding lessened; however, overcrowding in other prisons was so severe as to constitute inhuman and degrading treatment. Because of the uneven distribution of inmates, approximately 40 percent of prisoners remain housed in seriously overcrowded facilities. In November the National Assembly reformed the COPP, and human rights groups are concerned that the reforms could lead to an increase in detentions (see Sections 1.d. and 1.e.).

The Government failed to provide adequate prison security. According to PROVEA, there were 110 deaths and 698 injuries from violence in jails from October 2000 through September--a decrease from a total of 338 deaths and 1,255 injuries from violence between October 1999 and September 2000. Security forces committed a small number of the killings in prisons, and many prisoners died as a consequence of poor sanitary conditions, poor diet, and inadequate medical care. However, most inmate deaths resulted from prisoner-on-prisoner violence (especially during fights between rival gangs), riots, fires, and from generally unsafe conditions.

For example, on May 1, rival gangs clashed in the Tocuyito Prison in Carabobo state. The confrontation involved firearms and grenades that had been smuggled into the prison with the help of corrupt prison authorities. Six prisoners were killed and eight were wounded in the violence, which lasted several hours before authorities managed to control the situation.

On May 9, at the Yare jail in Caracas, two heavily armed rival gangs fought for over 12 hours before authorities could control the violence. Nine inmates were killed and 30 were wounded. One gang member was decapitated, several were mutilated, and one committed suicide when he found himself surrounded by rival gang members during the fighting.

On April 15, prisoners belonging to a gang in the Tocuyito Prison took hostage relatives of members of a rival gang who were present in the prison during visiting hours. Before releasing the family members, the inmates held them for more than a day to leverage their demands that prison authorities not undertake their planned transfer to another facility.

In March a gun battle between rival gangs in the El Rodeo Prison in Miranda state left 2 prisoners dead and 41

wounded. At Yare I Prison in Miranda, at least 20 inmates died in separate incidents from April to August, as gangs competed to control the market in drugs and weapons.

Inmates often have to pay guards as well as each other to obtain necessities such as space in a cell, a bed, and food. Because of the prison food's low quality and insufficient quantity, only about 30 percent of inmates consume it. Most prisoners get their food from their families, by paying prison guards, or in barter with other prisoners. Many inmates also profit from exploiting and abusing others. This problem is exacerbated by the absence of a rational system of prisoner classification: convicted murders and rapists are housed with unsentenced first-time petty offenders. Gang-related violence and extortion is fueled by the substantial trafficking in arms and drugs that occurs in prisons.

Prison officials often illegally demand payment from prisoners for transportation to judicial proceedings (see Section 1.e.).

Female inmates are held in separate prisons, where conditions generally are better than those in the men's facilities. Security forces and law enforcement authorities often imprison minors together with adults, even though separate facilities exist for juveniles. Because reform institutions are filled to capacity, hundreds of children accused of infractions are confined in juvenile detention centers where they are crowded into small, filthy cells, fed only once a day, and forced to sleep on bare concrete floors.

In August 2000, the Government ended the prison emergency that it had declared in September 1999, and disbanded the Interinstitutional Commission that had managed it. Funding for prisons remained extremely low during the year, preventing significant improvement in most penitentiaries. The Government publicly discussed the privatization of some prisons on several occasions, but took no concrete action. Despite resistance from the Catholic Church and NGO's, the Government sporadically used the National Guard, normally charged with exterior prison security, to maintain internal control of prisons.

The Government permits prison visits by independent human rights monitors.

#### d. Arbitrary Arrest, Detention, or Exile

The Constitution and the 1999 COPP provide for freedom from arbitrary arrest and detention; however, the security forces continued to arrest and detain citizens arbitrarily at a decreased rate.

There continued to be arbitrary detentions by the Caracas Metropolitan Police, the DISIP, municipal police forces, the National Guard, and the PTJ, especially during anticrime sweeps in impoverished sections of major cities. PROVEA documented 4,243 persons detained in sweeps from October 2000 through September, a decrease from the 8,981 persons detained in sweeps from October 1999 through September 2000.

In the Colombian border area where some constitutional protections had been suspended since 1994, the National Guard and army acted with near impunity until the suspension of the protections was lifted in 1999. Thereafter complaints against the security forces in this area decreased significantly. However, human rights activists in border areas allege that security forces there continue arbitrarily to detain individuals and groups, sometimes in the middle of the night, citing the need to examine identity documents.

There were no new developments in the case reported by Amnesty International in 2000 that police in Valencia, Carabobo state detained four transgendered persons and held them incommunicado for 2 days without food or drinking water in September 2000 (see Section 5). The family of one of the detainees filed a formal complaint with the Public Ministry.

The COPP states that a person accused of a crime cannot be incarcerated during criminal proceedings unless that person is caught in the act of committing a crime, or a judge determines that there is a danger that the accused may flee or impede the investigation. Under the previous system, the police could hold persons without an arrest warrant for up to 8 days, and in many cases, the police abused detainees physically and psychologically during that period and illegally held them incommunicado (see Section 1.c.). The law provides for the right to a judicial determination of the legality of the detention within 72 hours. Persons accused of crimes must be brought before a judge within 24 hours of arrest or be freed pending charges. In no case may the detention of a person accused of a crime exceed the possible minimum sentence for the crime committed, nor may it exceed 2 years. However, confusion over the COPP still exists, and arbitrary arrests continue to be common. In addition, the National Assembly approved reforms to COPP, including broadening the definition of the "in flagrante" circumstances in which a criminal may be apprehended and lengthening slightly the time provided to police to present charges prior to the release of an arrested individual (see Section 1.e.). Human rights groups are concerned that the reforms could lead to an increase in detentions.

Before the COPP came into effect in 1999, roughly 70 percent of prisoners had not been convicted of a crime because, under the previous procedural code, most criminal defendants were incarcerated rather than granted provisional liberty while their prosecutions were pending. In addition, the slow, secretive, and inquisitorial procedures under the previous code resulted in an inefficient, overburdened, and corrupt judicial system that left cases languishing an average of 4 to 5 years in the courts, during which time the accused usually remained in jail. Under the COPP, prisoners accused of petty crimes who have not been convicted but already have served 2 years or the minimum sentence possible for that crime (whichever is less) are to be released if they pass a psychiatric examination. Under the provisions and benefits provided by the law, approximately 9,000 prisoners were released in 2000, the last year for which this statistic was available. There were approximately 14,200 prisoners at the end of 2000, 45 percent of whom had not been convicted of a crime. This was a decrease from 57 percent in 1999.

Forced exile is illegal and is not practiced.

#### e. Denial of Fair Public Trial

The civilian judiciary is legally independent; however, it is highly inefficient and sometimes corrupt, and judges are subject to influence from a number of sources, including the executive branch.

The judicial sector consists of the Supreme Court, which is the court of final appeal; the Public Prosecutor, who provides opinions to the courts on prosecution of criminal cases and brings to the attention of the proper authorities cases of public employee misconduct and violations of the constitutional rights of prisoners or accused persons; the Ministry of Interior and Justice, which manages the national police force, files complaints in criminal courts, and oversees the prisons; and the Executive Directorate of the Magistrature (DEM), which oversees the lower courts as well as the selection and training of judges. The lower court system includes district and municipal courts as well as trial and appeal courts that deal with civil and criminal matters.

Both the 1999 COPP and the previous legal code provide for the right to a fair trial and consider the accused innocent until proven guilty in a court. However, under the previous secretive inquisitorial code, the presumption of innocence generally was not respected nor accepted. The system was corrupt, paper-intensive, costly, and time-consuming. Judges are underpaid, poorly disciplined, and susceptible to political influence. The COPP introduced for the first time open, public trials with oral proceedings and verdicts by juries or panels of judges. The adversarial system also establishes the right to plead guilty and make reparation agreements, a statute designed to clear the overburdened judicial system of simple cases and minor offenses. However, lengthy delays in trials remained common.

The Government continued to struggle to implement the COPP, which altered the fundamental concept of how justice is carried out, the legal procedures involved, and the respective roles of the police, judge, and lawyers. The police no longer may detain persons arbitrarily for up to 8 days (see Section 1.d.) and now must work under the supervision of a prosecutor; judges have ceased to be investigators and are now arbiters of law; and prosecutors and defense attorneys confront one another in court. Despite a shortage of trained personnel and resources, open, oral trials took place around the country for the third consecutive year.

Frustration among law enforcement entities over the difficulty of adapting to the COPP and public perceptions that the COPP's higher evidentiary standards and greater rights for the accused are responsible for rising crime levels led the National Assembly to form a mixed committee of jurists to propose reforms to the law. In November the National Assembly approved a series of reforms, including: Strengthening out-of-court settlements and increasing victims' rights to compensation; providing physical protection to crime victims during trials; bolstering the work of juries for some crimes and eliminating them for others; eliminating some sentence reduction benefits for jailed criminals; and expanding powers of detention (see Section 1.d.). The reforms were in effect at year's end.

The law provides for public defenders for those unable to afford an attorney; however, there are not enough public defenders to handle the caseload. According to statistics from the DEM, with the appointment on August 3 of 120 provisional public defenders, there are 395 public defense attorneys for the entire country.

Prison officials often illegally demand payment from prisoners for transportation to judicial proceedings. Those who are unable to pay often are forced to forgo their hearings.

Significant attempts to reform the judicial system continued slowly. During the year, the DEM—which oversees the selection, training, and discipline of judges—suspended and removed judges based on charges of incompetence or corruption. Judges were suspended with pay; however, some observers challenged that the judges' right to appeal was restricted. The Government held competitive examinations to fill judicial vacancies,



beginning in Miranda and Vargas states in January. Judges with pending cases against them are not eligible to take the examinations, and judges who have been reprimanded have points deducted from their scores. However, the slow pace at which suspended or fired judges are replaced meant that, as of August, only 183 (or approximately 10 percent) of the 1,772 judges in the country were permanent, while the remaining 1,589 (or approximately 90 percent) were temporary. Some human rights groups alleged that these procedures allowed the executive branch to choose judges that would be loyal to the Chavez Administration.

The military courts continued to implement a reform similar to the COPP in the military justice system. The Constitution established that trials for military personnel charged with human rights abuses would be held in civilian rather than military courts. However, the provision does not apply to cases that predate the 1999 Constitution and there is no implementing law for the provision. In January a soldier died and two were injured after army Lieutenant Alessandro Siccat sprayed and ignited paint thinner in their holding cell (see Section 1.a.). The military proceeded with a case against Siccat within the military court system; however, before the start of the court-martial, the COFAVIC convinced the Attorney General to appeal for a halt to the military proceedings. The Attorney General appealed to the Supreme Court, which determined that the case should have been heard by the Superior Court, and declined to hear the appeal. On September 14, the court martial sentenced Siccat to 16 years and 7 months in jail for manslaughter, assault, and abuse of authority. However, following the verdict, the Attorney General appealed to the Supreme Court to have the military trial annulled and the case sent to civilian courts. On October 24, the Supreme Court ruled that civilian courts should hear the case, citing the precedence of Article 261 and the "ordinary," rather than "military," nature of the crime. The Court declared the court-martial and sentence null and void, and sent the case to a state court in Maracay. Siccat remained in custody at year's end.

Human rights NGO's continued to express concern that the Supreme Court's selection of military judges from a list of candidates provided by the Minister of Defense links the careers of military judges to the high command, making them more responsive to the views of their military leaders and influencing them to act slowly in cases in which the military is implicated. As a result, military judges trying human rights cases that predate the Constitution can be subject to improper influence, and offenders might evade punishment for human rights abuses. However, human rights groups noted the Ministry of Defense's decision during the year to publish its judge candidate lists and called this a step toward greater transparency in this process.

There were no reports of political prisoners.

#### f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

Constitutional provisions prohibit arbitrary interference with privacy, family, home, and correspondence; however, the security forces continued to infringe on citizens' privacy rights by conducting searches of homes without warrants, especially during anticrime sweeps in impoverished neighborhoods. There were no complaints during the year by human rights NGO's of illegal wiretapping by the security forces.

### Section 2 Respect for Civil Liberties, Including:

#### a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and while the Government generally respects these rights in practice, many journalists and media critics reported that the Government intimidated the media and that self-censorship was widespread. Individuals and the media freely and publicly criticize the Government; however, concerns over press freedom increased during the year. President Chavez made public threats against individual journalists and media organizations. During the year, government officials singled out media figures by name for verbal attack, criticized a television station's coverage and noted that its broadcasting license could be revoked, and alleged that certain media organizations and owners have evaded taxes.

The Constitution states that all persons have the right to "timely, true, and impartial" information, without censorship. This "true information" article has raised concerns among many in the domestic and international media that it could be used by the Government to censor or intimidate the press. The Constitution also provides for the "right to reply" for individuals who believe they are portrayed inaccurately in media reports. President Chavez has demanded a right to reply on several occasions. However, some individuals named by the President in his weekly national radio show have complained that they have not been granted the right to reply.

The most significant such case was a lawsuit filed in October 2000 by journalist Elias Santana. In two separate radio programs, President Chavez criticized Santana and his NGO activities by name in his programs; Santana

sought the right to reply. On June 12, the Supreme Court denied Santana's request, stating that the media and those who habitually express themselves through the media do not have a right to reply, because "the right to reply and correction has been granted only to those who receive information, not to those who supply it." Santana announced that he would appeal this ruling to the IACHR; the appeal was pending at year's end.

The Supreme Court's ruling also established criteria for determining and exercising the right to "timely, true and impartial information." It declared that it is "contrary to the freedom of information" for a medium to "emit negative or critical concepts about ideas, thoughts, judgments, rulings, etc.," without indicating what is being criticized. The ruling set criteria to establish whether a media report is "true" or not, according to the Constitution. Violations include expressing opinions that contain statements that are "out of context, disconnected, or unnecessary for the topic, or offensive, insidious, or degrading expressions unconnected to the topic, or unnecessary for the forming of public opinion." The ruling affirms that information can be censored prior to publication if it violates Article 57 of the Constitution, which prohibits anonymous authorship, war propaganda, and messages that promote discrimination or religious intolerance. The Court also ruled that it is "restrictive of true and impartial information" if a majority of a medium's writers of editorial articles express the same ideological tendency, unless that medium openly declares itself to be a party to those views. The domestic media and international organizations such as the Inter-American Press Association (IAPA) and the Committee for the Protection of Journalists criticized the Court's ruling.

A separate and earlier judicial case also suggested pressures against freedom of speech. Pablo Aure Sanchez, a professor at the University of Carabobo, sent a letter allegedly insulting the Armed Forces to newspaper editors that was published on January 3. On January 8, Aure was arrested on the orders of a military judge and questioned by military intelligence agents. Then-Foreign Minister Rangel accused Aure of being involved in a conspiracy to incite unrest within the military. Aure was held for 2 days and released. On February 2, the Supreme Court transferred the case to a civilian court. The editor of the *El Carabobeño* newspaper, which published the letter, was called to testify before the National Assembly. The editor of the *El Nacional* newspaper, which also published the letter, refused to testify.

During public remarks on June 9, President Chavez announced that he had given orders that, as of that date, foreigners who criticize the country, the President, or the armed forces would be expelled from country for meddling in domestic politics. The remarks came several days after a Peruvian politician compared President Chavez to former Peruvian President Alberto Fujimori during a public seminar. At year's end, there were no reported cases of foreigners being expelled for such public criticism.

A 1994 law requires practicing journalists to have journalism degrees and be members of the National College of Journalists. These requirements are waived for foreigners and for opinion columnists, on the grounds of tolerance of free speech. Media owners challenged the law in 1995, but there was no definitive court ruling on this matter by year's end.

Print and electronic media are independent. Most newspapers do not regularly publish editorials that reflect the view of the newspaper, but signed articles on opinion pages carry abundant and varied perspectives, often highly critical of the Government. Radio and television stations rarely broadcast overt institutional political opinions, although opinion and talk shows are common. There are state television and radio stations and a national newswire service whose directors are named by the President. The President has a weekly call-in radio show on state-run Radio Nacional. At the President's discretion, his speeches or other public appearances may be declared a "national broadcast." All television and radio stations are required by law to preempt scheduled programming and transmit the national broadcasts in their entirety.

Media analysts, journalists, and other observers allege that the criminal defamation and libel laws are used to intimidate or harass the media. On June 6, the Supreme Court dismissed one long-running suit against *Exceso* magazine, first filed in 1997. A separate criminal defamation suit, against Pablo López Ulacio, editor of weekly newspaper *La Razón*, continued at year's end. *La Razón* published articles in September 1999 alleging possible corruption in certain government contracts and auctions. In June 2000, a court prohibited *La Razón* from publishing information related to the lawsuit. López was placed under house arrest and eventually went into hiding, alleging that he could not receive a fair trial in Venezuela. The International Committee to Protect Journalists protested the case and asked the IACHR for injunctive relief, which was granted on February 8. The case remained pending before Venezuelan courts at year's end. Because of the lengthy process and considerable legal costs, some observers regard these lawsuits, or threats of lawsuits, as examples of attempts to intimidate journalists and discourage investigative journalism.

The Government has tools to influence the press, such as licensing requirements for journalists, broadcast licensing concessions for television and radio stations, and lucrative public sector advertising. In practice the media environment has been free and open, although some journalists believe that self-censorship is becoming more widespread.

A telecommunications law enacted in June 2000 was criticized by the International Association of Broadcasting and domestic media upon its passage because of provisions relating to broadcast content and frequency concessions. Article 209 of the law establishes that the President, "when he judges it convenient to the interests of the nation, or when required for reasons of public order or security, can suspend telecommunications broadcasts, in conformity with the Constitution." Some observers believe that this article might allow the suspension of media broadcasts for vague and arbitrary reasons. On October 3, President Chavez referred to this law when he criticized television station Globovisión and noted that the Government has the discretionary power to revoke licenses.

There were numerous allegations of inappropriate government pressure against the media. President Chavez repeatedly has singled out media owners and editors by name, sometimes calling them "enemies of the revolution" or "enemies of the people." He has also charged that some media figures are involved in a campaign to provoke political unrest and an "international conspiracy" to discredit or insult his Government. On one such occasion, President Chavez asked his audience if they knew a particular owner and threatened to show a photograph of that person. One newspaper editorialized that this threat was "extremely dangerous: his threat to display [the] photograph constitutes literally an incitement to a physical lynching."

President Chavez also publicly accused media owners and institutions of tax evasion, sometimes citing individual persons or media. For example, on June 9, he identified one media owner by name, called his publication "a newspaper of lies" and threatened "to send his bones to jail" for tax evasion. The President stated, "Those tax evaders are the people guilty of the war against the Government in the media."

On October 3, the President accused television station Globovisión of engaging in a "campaign of lies" against the Government. Chavez characterized this supposed campaign as "premeditated" and "psychological terrorism." He particularly criticized a September 29 broadcast by Globovisión that included an interview with a taxi driver who erroneously stated that nine taxi drivers had been murdered the previous night. Globovisión corrected the report later that same day. President Chavez warned Globovisión's director Alberto Federico Ravell and its owner Nelson Mezerhane that if they did not reconsider their broadcasts, he would "be forced to activate mechanisms in defense of the national interest, truth and public order" and that their actions might have "legal consequences." President Chavez noted that the "airwaves belong to the State," announced that he had ordered the National Telecommunications Commission (Conatel) to investigate the station, and warned that the station's broadcast licenses might be reviewed. Media observers interpreted the statement as a threat against all media, especially broadcast media. Fernando Egaña, former director of the Government's Central Information Office, stated that the criticism against Globovisión was not "isolated nor a specific instance; it forms part of a permanent and systematic campaign of intimidation against the media." On October 18, Conatel announced that it was opening administrative proceedings against Globovisión to determine if the station had violated broadcast content regulations. The case remained pending at year's end. Possible sanctions include punitive action, monetary fines, or the temporary or permanent suspension of Globovisión's license.

There were no reports of government-sponsored attacks on journalists; however, journalists have reported being assaulted physically or verbally for what appear to have been political motives. Individual journalists have reported receiving intimidating or threatening phone calls, and there were instances of bomb threats and small explosive devices planted near newspaper offices. Some observers assert that President Chavez's aggressive rhetoric in criticizing the media has contributed to a climate of intimidation and hostility toward the media that encourages such attacks.

In Guárico state, a lawsuit for defamation against a journalist from the La Prensa del Llano newspaper and a court order prohibiting the newspaper from mentioning the state governor in its reports were regarded by some observers as a case of official pressure. There were also allegations of threats against a reporter from La Antena newspaper after the publication of an article alleging corruption by the governor.

On May 25, the printing press of La Opinión newspaper in Cojedes state was destroyed by fire in an apparent arson. The newspaper had published many articles critical of the state governor.

International organizations and domestic journalists have charged the Government with encouraging a climate of hostility toward the media that jeopardizes freedom of the press. The IAPA expressed its "concern for the future of freedom of expression in Venezuela" at its October meeting. Its annual report stated that "there is a marked tendency on the part of the Government toward restricting press freedom via threats, and there are open pressures directed against written media, editors and reporters for disagreeing with official policy." The IAPA report said that the Government was "inciting public hatred" against the media and that "a dangerous attitude exists on the part of the State."

In October 2000, the International Press Institute (IPI) first added the country to its "watch list" of countries

where there is a growing tendency toward suppressing or restricting press freedom. In October the IPI decided to maintain the country on the watch list. The IPI report stated that "the aggressive rhetoric by President Chavez has contributed to the creation of a climate of intimidation and hostility toward the press and self-censorship is becoming more common." The IPI charged that some government officials at the state and city levels also have tried to intimidate the media.

There is no state censorship of books, films, or other media products. Internet access is completely free and uncontrolled.

While academic freedom traditionally has been respected, the autonomy of the country's universities was threatened during the year. Public institutions of higher education designated as "experimental universities" are governed by Superior Councils, to which the Government may appoint a majority of members. In April the Government attempted to name to the Superior Council of the Simon Bolivar University in Caracas a majority of individuals because of their political allegiance to the Government, rather than because of their academic credentials. The Government successfully replaced the leadership of other universities, mostly in the interior of the country, with political allies. The Central University of Venezuela, whose Rector was chosen in transparent elections in 2000 and who is not aligned politically with the Government, continued to experience violent, pro-Government student unrest. For several days in March and April, the Central University of Venezuela was in a state of siege. On March 28, approximately 400 students, faculty and staff, some claiming to be members of a formerly unknown group called "Utopia and Disobedience," caused violent demonstrations that resulted in some injuries, and the sequestering of Rector Giannetto along with other university officials in the Rectorate. A group of students, reportedly aligned with the Government, occupied university buildings for over a month in an effort to force the Rector to resign. One of the leaders of this group was the son of the Vice President, and there were concerns that the protesters used supplies provided by a government-sponsored foundation. Other university students ultimately removed the occupiers. Two weeks after their removal, the University Rectorate was bombed; there were no injuries.

Academic freedom also was threatened at the primary and secondary school levels by an October 2000 decree from the Ministry of Education, Culture, and Sports which, under the guise of improving public education, would create itinerant school supervisors named by the Ministry. These supervisors would have powers to inspect any school, public or private, and to remove any instructor found deficient in any way, including ideologically. Opposition to the decree arose in February, led by middle-class parents, teachers' groups, church officials, and academics who expressed concern that Decree 1011 was designed to ensure ideological brainwashing. The Minister of Education, Culture, and Sports hesitated over whether the Decree applied to private institutions as well as public schools and finally decided that it did not--thereby putting the Minister at variance with President Chavez. A subsequent press release from the Ministry of Education, Culture, and Sports cautiously stated that the decree could be applied properly only to those schools receiving public funds.

#### b. Freedom of Peaceful Assembly and Association

The Constitution provides for the freedoms of peaceful assembly and association, and the Government generally respects these rights in practice. Public meetings, including those of all political parties, generally are held unimpeded. The Government requires permits for public marches but does not deny them for political reasons.

The Constitution prohibits the use of firearms to control peaceful demonstrations. According to PROVEA, 1 person was killed and 93 were injured during demonstrations from October 2000 through September, compared with 139 persons injured from October 1999 through September 2000.

Authorities use firearms, tear gas, and billy clubs against demonstrators. Metropolitan Police used tear gas against pro-Chavez protesters confronting anti-Chavez demonstrators at the National Assembly on November 22 and against marchers in a similar confrontation on December 7 (see Section 1.c.). There were no reports of excessive use of force in these incidents.

Professional and academic associations generally operate without interference; however, in November 2000, the Supreme Court ruled that: (1) NGO's that receive funding from foreign governments or whose leaders are not Venezuelan are not part of "civil society" and therefore may not represent Venezuelan citizens in court or bring their own legal actions; (2) Religious organizations are not part of civil society and are subject to the same restrictions; and (3) The Government has an obligation to ensure that NGO's are "democratic in nature" and therefore the internal elections of nonprofit groups (such as for boards of directors) can be regulated by the National Electoral Council. While there was no definition as of year's end as to how the ruling is to be implemented, human rights NGO's (see Section 4), labor unions (see Section 6.a.), and other members of civil society continued to express serious concerns about the ruling.

### c. Freedom of Religion

The Constitution provides for freedom of religion, on the condition that the practice of a religion not violate public morality, decency, or the public order, and the Government generally respects this right in practice.

In 1964 the Government and the Holy See signed a concordat that underscores the country's historical ties to the Roman Catholic Church and provides government subsidies to the Church, including to its social programs and schools. Other religious groups are free to establish and run their own schools, but they do not receive subsidies from the Government.

Each local religious group must register with the Directorate of Justice and Religion in the Ministry of Interior and Justice in order to hold legal status as a religious organization and to own property. The requirements for registration are largely administrative. However, some groups have complained that the process of registration is slow and inefficient. Foreign missionaries require a special visa obtained through the Ministry to enter the country. Missionaries are not refused entry generally, but many complain that due to general bureaucratic inefficiency the Government often takes months or years to process a request.

In a statement released on January 13, the Catholic Church expressed concern that a new program for government-provided itinerant school supervisors could, in theory, become involved in the operation of private religious schools, under the provisions of an October 2000 decree by the Ministry of Education, Culture and Sports (see Section 2.a.). However, as of December, this decree had no impact on the operation of private religious schools.

In May representatives of the Roman Catholic, Anglican, and other Protestant Churches rejected participation in the "Interreligious Parliament of the Bolivarian Republic of Venezuela," a Government-organized group of religious organizations whose stated purpose is to coordinate their social welfare programs. In a statement released on May 10, the Catholic Church expressed concerns for its autonomy and asserted that the Interreligious Parliament appeared to be an effort to centralize unduly the social work of the country's churches and religions.

In November 2000, as part of a broader ruling on whether certain entities qualify as members of the Government's definition of civil society (see Section 2.b.), the Supreme Court ruled that religious organizations are not part of civil society and that as such they may not represent Venezuelan citizens in court nor bring their own legal actions. However, as of December, this ruling had no impact on religious activities.

### d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for the right of citizens and legal residents to travel within the country and to go abroad and return, and the Government generally respects these rights in practice. However, the Government can suspend the freedom to travel. The Government also restricts foreign travel for persons being investigated for criminal activities. The Government requires Venezuelan citizens and foreigners resident in the country who are departing the country with minors to present to immigration officials proof of authorization from the minors' parents.

There is still a large population of internally displaced persons following the floods of December 1999. According to official figures, more than 250,000 persons lost their homes in the flooding and mudslides.

The Constitution recognizes and provides for the right to asylum and refuge, and in August the National Assembly approved a law on refuge and asylum. Both the Constitution and this law are in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The law is designed to expand the legal rights of refugees, contains a broad definition of the conditions that would entitle individuals to refugee status, commits the Government to an active role in providing humanitarian assistance to refugees, and creates an institutional body to make refugee and asylum status determinations. Human rights groups welcomed the passage of the law but expressed concern at the absence of implementing regulations and training for border officials. In August President Chavez inaugurated a new office of the U.N. High Commissioner for Refugees (UNHCR) in San Cristobal, Tachira state.

Prior to the enactment of the August law on refuge and asylum, there was no domestic legislation regarding the determination of refugee status or the procedures or criteria to be applied, and no independent organization to handle asylum requests existed. In 1999 the Government established an Interministerial Technical Commission to address cross-border movements and allow the Venezuelan Bishops' Conference to coordinate with UNHCR in assisting refugees; however, this Commission did not function in 2000 or 2001. As of December, approximately 200 persons in the country had been granted refugee status and roughly 200

additional refugee claims were pending before the Government.

In theory the Government provides first asylum. However, in January the Government denied the existence of all but a small number of 700 Colombians who crossed the Rio de Oro river into Zulia state and claimed to be fleeing paramilitary incursions near La Cooperativa and La Pista in Colombia's Norte de Santander department. The Government also refused to send the fact-finding mission that it customarily had undertaken with UNHCR when refugee influxes were reported. It called the Colombians whose presence it did acknowledge "displaced persons in transit"--a term that does not exist in international humanitarian law. Nine individuals from the Colombian group were hospitalized, including two pregnant women and six children in the town of Machiques. However, they were returned to Colombia following their treatment, and it was unclear whether their return was voluntary. None of the 800 Colombians was given the opportunity to apply for refugee status.

In October the Government provided shelter and assistance to a group of approximately 160 Colombians that fled temporarily into Amazonas state due to a FARC attack. Four injured individuals were taken to a local hospital. The Colombians returned home voluntarily.

There were no other reports of forced return of persons to a country where they feared persecution.

### Section 3 Respect for Political Rights: The Right of Citizens to Change their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right through periodic, free, and fair elections held on the basis of universal suffrage. The Constitution provides for the direct election of the President and unicameral National Assembly, as well as of state governors, state legislative councils, and local governments. Political parties organize, and their candidates are allowed freely to run for office and to campaign. The President has extensive powers, and the legislature appoints the members of the Supreme Court, the CNE, and the Citizen Power consisting of the Ombudsman, Public Prosecutor, and Controller General.

Following President Chavez's initial election to the Presidency in 1998, elections were held in 1999 for a National Constituent Assembly (ANC), which drafted and submitted to a popular referendum and approval a new Constitution, which went into effect on December 30, 1999. The Constitution replaced the previous bicameral legislature with a unicameral National Assembly. The ANC also decreed new general elections.

Elections for every public office in the country were scheduled by the CNE for May 28, 2000; more than 35,000 candidates ran for some 6,000 offices. However, as the date approached, it became apparent that the CNE had failed to organize the elections adequately, primarily due to constant changes to the voter database which both NGO's and political opponents of President Chavez alleged offered electoral advantage to Chavez's supporters. Faced with the prospect of a chaotic and contested election, the CNE decided at the last minute to serve as a friend of the court in a pending suit by two NGO's before the Supreme Court seeking delay of the election. On May 25, 2000, the Supreme Court ordered the delay and gave the Controller General oversight powers over the CNE. A "national roundtable" then chose a new National Electoral Council, which included nonpartisan civil society members.

The new CNE chose July 30, 2000, as the new date for elections and decided that, for practical reasons, these elections would be limited to the presidency, national and state legislatures, governorships, and mayors, with election of municipal and parish councils to be held October 1. Most observers, including many members of the opposition and media, generally regarded these decisions as valid. However, leading presidential challenger Francisco Arias Cardenas criticized the decision to split the elections, alleging that this put him at a disadvantage.

On July 30, 2000, in voting that observers from the Organization of American States and various countries judged to be generally free and fair, voters elected President Chavez again, with 59 percent of the vote. Chavez's supporters won a majority (92 seats) in the 165-seat National Assembly. His supporters also won half the governorships. There were technical irregularities, as a limited number of voting machines failed to accept ballots or otherwise broke down, and there was disorganization at some polling places. However, standard backup procedures for voting machine failure were generally followed. Still, some of the losing candidates alleged fraud. For example, Arias Cardenas maintained that voting machines were programmed to undercount votes for him. Losing candidates for several governorships alleged that fraud or irregularities affected the outcome of the voting. As a result, the CNE conducted audits of election results in the states of Amazonas, Guayrico, Merida, Tachira and Zulia. It ordered recounts or partial revotes in some cases. In Amazonas state, following a recount of all votes for governor, the CNE reversed the results of the governor's race, announcing on October 10, 2000, that Liborio Guarulla of the Popular Workers' Party (PPT) party had defeated Bernabe Gutierrez of the Democratic Action (AD) party by 10,971 votes to 10,534. Gutierrez called

the CNE decision "arbitrary and unjust" but relinquished the governorship peacefully.

In November 2000, the National Assembly passed an "enabling law" that gave President Chavez the authority to legislate by decree on selected issues related to the economy, reorganization of government ministries, and crime. In November 49 laws were passed under these special decree powers, which generated much public controversy and led in December to a national work stoppage organized in protest by both the main business organization (Fedecamaras) and the main labor confederation, the Confederation of Venezuelan Workers (CTV) (see Section 6.a.).

In December 2000, the National Assembly appointed members of the Supreme Court and the Citizen Power in a process that was criticized by the political opposition, the media, and NGO's as unconstitutional. These groups argued that the procedures set forth in the 1999 Constitution regarding civil society participation in the selection process were not followed. The outgoing Ombudsman and others challenged the selection procedure but lost the appeal.

Women and minorities participate fully in government and politics; however, their percentage in senior leadership positions and national elective offices does not correspond to their percentages of the population. The National Assembly's Family, Women, and Youth Committee promotes political opportunities for women. In the July 2000 elections, women won 20 seats in the 165-seat Assembly. There are 4 women in President Chavez's 14-member Cabinet. In December 2000, President Chavez appointed Adina Bastidas as Vice President.

Indigenous people traditionally have not been integrated fully into the political system due to low voter turnout, geographic isolation, and limited economic and educational opportunities. The 1999 Constitution reserved three seats in the National Assembly for indigenous people, and these seats were filled in the July 2000 election. There are no indigenous members in the Cabinet.

#### Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of independent domestic and international human rights groups generally operate without government restriction, investigating and publishing their findings on human rights cases. Government officials are occasionally responsive to their views. However, NGO's expressed concern about a November 2000 Supreme Court ruling that NGO's that receive funding from foreign governments or whose leaders are not Venezuelan are not part of civil society, and therefore that such NGO's may not represent Venezuelans in court or bring their own legal actions, and that NGO's are subject to government regulation of their internal leadership selection should they be found to be "undemocratic in nature" (see Section 2.b.).

In June DISIP agents visited the office of the NGO Fraternal Association and Active Orientation (AFOA) in Bolivar state. The agents questioned AFOA members regarding the nationality of the group's leadership and its sources of funding. They also announced their intention to visit other NGO's in the state. The NGO umbrella organization Foro por la Vida publicly criticized DISIP's actions, and no additional DISIP visits had occurred by year's end.

On March 16, the Foreign Ministry sent the NGO Citizen's Action Against AIDS (ACCSI), an AIDS issues group, a communication citing the Supreme Court's 2000 ruling and informing the group that it was not entitled to government funding to attend a U.N.-organized AIDS event in New York because one of its senior staff members is not a citizen. Human rights groups expressed concern regarding the incident; however, ACCSI was not prohibited from traveling to the event using its own funding, and its members attended without incident.

There were press reports in May that an internal report prepared by the Unified Command of the Armed Forces falsely described unnamed NGO's operating in states bordering Colombia as having ties to Colombian guerrillas. Citing confidentiality regulations, the armed forces declined to respond to the request from concerned NGO's to release the report publicly.

In January 2000, President Chavez criticized a PROVEA report on the December 1999 human rights violations in Vargas state (see Sections 1.b., 1.c., and 1.d.) as "suspicious and superficial" and said that the NGO's refusal to name the witnesses on whom the report was based was irresponsible. The President later pledged to investigate the abuses and met with the victims' families, and the Government invited the IACHR to make an on-site visit. However, the Government postponed this visit twice, and at year's end it still had not taken place.

The "Defender of the People," or Ombudsman, is responsible for compelling the Government to adhere to the

Constitution and laws and, together with the Public Prosecutor and Controller General, makes up the Citizen Power branch of government. Throughout 2000 the country's first Ombudsman, Dilia Parra, repeatedly and openly advocated for the respect of human rights and assisted investigations of abuses by acting as a liaison between complainants and the Public Prosecutor. In December 2000, in a process that human rights organizations charged was unconstitutional, the National Assembly named attorney German Mundarain as the new Ombudsman (see Section 3). Since his appointment, Mundarain has used his position to urge broad consensus on human rights issues. However, human rights NGO's claimed that the Ombudsman's office had taken action on only 20 percent of cases presented to it.

Human rights groups remained concerned about the Chavez administration's lack of a human rights agenda and lack of support for the national human rights agenda formulated by the previous Government in a 1997 symposium with NGO's. There have been no meetings between President Chavez and NGO's to discuss human rights issues since 1999. The Government also continued to fail to support the National Human Rights Commission created by former President Rafael Caldera in 1996 as a mechanism to coordinate the Government's human rights programs and to serve as a forum for dialog with NGO's. The Commission appears to be moribund. However, NGO's have developed relationships with specific government bodies such as the Ministry of Education (to develop educational materials on human rights), the Foreign Ministry (to discuss the resolution of existing human rights cases against the Government in international courts), and the National Assembly (to discuss proposed legislation affecting human rights).

At an August 9 meeting with indigenous representatives, Vice President Adina Bastidas announced the creation of a Presidential Commission for Assistance to Indigenous Peoples. This body is headed by the Vice President and includes representatives of the Ministries of Defense; Environment; Health and Social Development; Planning; Energy and Mines; Education, Culture, and Sports; and major state-owned company Corporacion Venezolana de Guyana. There were no reports of its activities.

The Defense Ministry's human rights office continued to conduct courses as part of the armed forces' training curriculum. Human rights NGO's complained that the Ministry still rejected the validity of their reports of alleged human rights violations by the armed forces and remained unwilling to provide evidence to refute the charges, citing confidentiality regulations.

Following the July 2000 elections, the National Assembly established an Interior, Justice, Human Rights, and Constitutional Guarantees Committee. The Constitution also obliges the Government to make amends to the victims of human rights violations and commits it to implement decisions of international bodies on individual cases of abuse. However, the Government moved extremely slowly on high-profile human rights cases being processed within the country and in the inter-American human rights system (see Sections 1.a. and 1.b.).

#### Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution expressly prohibits discrimination on the basis of politics, age, race, sex, creed, or any other condition, and the law prohibits discrimination based on ethnic origin, sex, or disability. However, the Government did not protect women adequately against societal and domestic violence and did not ensure the disabled access to jobs and public services, nor safeguard adequately the rights of indigenous people during the year.

There have been no new developments in the case reported by Amnesty International in 2000 that police in Valencia, Carabobo state detained four transgendered persons and held them incommunicado for 2 days without food or drinking water in September 2000 (see Section 1.d.). The family of one of the detainees filed a formal complaint with the Public Ministry.

#### Women

Violence against women continued to be a problem, and women faced substantial institutional and societal prejudice with respect to rape and domestic violence during the year. Domestic violence against women was very common and was aggravated by the country's economic difficulties. A total of 14,683 cases of domestic violence were reported to the authorities in 1997, the most recent year for which statistics are available. Many domestic violence cases are not reported to the police. The police generally are unwilling to intervene to prevent domestic violence, and the courts rarely prosecute those accused of such abuse, according to local monitors. In addition, poor women generally are unaware of legal remedies and have little access to them. In January 2000, the 1999 Law Against Violence Toward Women and Children came into force, and the PTJ opened a division against violence in 2000 to accommodate its provisions. This law requires the police to report on domestic violence and obligates hospital personnel to advise the authorities of cases of abuse.



Under the existing law, rape is extremely difficult to prove, requiring at a minimum medical examination within 48 hours of the crime. A provision in the Penal Code provides that an adult man guilty of raping an adult woman with whom he is acquainted can avoid punishment if, before sentencing, he marries the victim. Few police officers are trained to assist rape victims. In 1997, the most recent year for which statistics were available, the police received 7,426 reports of sexual crimes, of which over 3,600 were cases of rape. However, women's organizations assert that these figures are low and do not portray accurately the problem of rape and sexual assault. They claim that many victims do not report the incident or press charges due to societal pressure and their own feelings of guilt.

There were reports that women were trafficked to Spain for purposes of prostitution (see Section 6.f.).

Sexual harassment in the workplace is a common problem but is not a criminal offense.

During the year, the National Institute for Women (formerly the National Women's Council)--an agency of the Presidency with representation from the Ministries of Justice, Education, Family, Health, and Labor--designed two programs that are aimed at assisting women in need and enhancing the economic independence of women. The first is the "Women's Bank," a lending institution inaugurated by President Chavez on September 13 that is designed to provide small-scale financing to micro-enterprises run by women. The second is the Women's Shelters Program, a series of centers being built to receive, care for, and rehabilitate women in distress.

As of August, 56 women were in training at the Army's military academy. This is a result of the Government's June 2000 decision to allow women to attend military academies and serve in expanded roles as officers in the armed forces. Women account for roughly half the student body of most universities and have advanced in many professions, including medicine and law. Women gradually have surmounted many of the barriers to their full participation in political and economic life; nonetheless, they still are underrepresented in leadership positions and, on average, earn 30 percent less than men. Women and men are legally equal in marriage.

The Constitution provides for sexual equality in exercising the right to work. The 1990 Labor Code specifies that employers must not discriminate against women with regard to pay or working conditions, must not fire them during pregnancy or for

1 year after giving birth, must grant them unpaid leave and benefits for 6 weeks before the birth of a child and 12 weeks after, and must provide them with 10 weeks of unpaid leave if they legally adopt children under 3 years of age. According to the Ministry of Labor and the CTV, the country's major labor federation, these regulations are enforced in the formal sector, although social security payments often are delayed.

There are a number of NGO's concerned with domestic violence, sex education, and economic discrimination. However, the recommendations of these groups have not been implemented widely by the police or other concerned government agencies.

#### Children

In April 2000, the National Assembly passed the Organic Procedural Law on Adolescents and Children; however, observers expressed concern over the slow implementation of the law's provisions. Government expenditures on education, health, and social services continued to increase during the year due to an improving economy and a larger government budget. Approximately one-third of the Ministry of Education budget was dedicated to post-secondary education, leaving both primary and secondary education chronically underfunded. According to the Constitution, the State is to provide free education up to the university-preparatory level (15 or 16 years old) and the law provides for universal, compulsory, and free education; however, according to UNICEF, only 75 percent of eligible children enter the first grade, and an estimated 64 percent of children leave school before the 9th grade.

In addition, 500,000 children are not eligible to receive government assistance, including public education, because their births are not documented properly, according to the 2000 annual report of the NGO Community Centers for Learning (CECODAP). A 1998 government regulation requires hospitals to register the births of all children, but a Government program of sending teams into poor neighborhoods to register minors has been discontinued. Many children remain undocumented.

According to CECODAP's 2000 study, an estimated 500,000 children, most under the age of 5, have an average of 2 episodes of gastroenteritis a year, a sickness that is the ninth leading cause of death in the country. According to a 1999 study by the National Nutrition Institute, 23 percent of children under the age of 15 have a nutritional deficit. Approximately 76 percent of minors live in poverty. Substandard conditions

contribute to the increase in preventable diseases that are leading causes of infant mortality. Sanitation and schooling conditions for children in Vargas state continue to suffer heavily from effects of the December 1999 flooding there.

Increasing poverty has raised the level of stress within families and led to a rise in the number of abandoned children and to more child abuse. Fears of entanglement with the authorities and societal ingrained attitudes regarding family privacy lead to underreporting of child abuse. The judicial system, although slow, ensures that in most situations children are removed from abusive households once a case has been reported. However, public facilities for such children are inadequate and have poorly trained staff.

There were reports that children from other South American countries, especially Ecuador, were trafficked to work in Caracas as street vendors and housemaids (see Section 6.f.).

Child labor is a problem (see Section 6.c.).

A 1994 survey by the National Institute for Minors determined that 206,000 children were involved in illicit activities, principally begging but also petty theft, prostitution, and drug trafficking and that some 40,000 children were exploited sexually.

The authorities in Caracas and several other jurisdictions tried to cope with the phenomenon of street children by continuing to impose curfews for unsupervised minors. Children's rights advocates claim that curfews permit the police to act arbitrarily and detain persons who have committed no crime. Because reform institutions are filled to capacity, hundreds of children accused of infractions, such as curfew violations, are confined in juvenile detention centers (see Section 1.c.).

Children's rights advocates continued to criticize the Government's lack of success in reuniting children and parents who were separated in the flooding in Vargas state in 1999. At year's end, 2 years after the natural disaster, some children still were separated from their families and some may have died in the flooding, although CECODAP estimated that at the end of 2000 there were 120 children in shelters who had not yet been returned to their families. The Ombudsman's office continued to investigate whether some of these children may have been trafficked (see Section 6.f.).

#### Persons with Disabilities

Persons with disabilities have minimal access to public transportation, and ramps are practically nonexistent, even in government buildings. According to local advocates, persons with disabilities are discriminated against in many sectors, including education, health care, and employment.

A comprehensive 1993 law to protect the rights of persons with disabilities requires that all newly constructed or renovated public parks and buildings provide access. The law also forbids discrimination in employment practices and in the provision of public services. However, the Government has not made a significant effort to implement the law, to inform the public of it, or to try to change societal prejudice against persons with disabilities.

There were no reports of discrimination against persons with mental illness.

#### Indigenous People

Although the law prohibits discrimination based on ethnic origin, members of the country's indigenous population frequently suffer from inattention to and violation of their rights. There are approximately 316,000 indigenous people in 27 ethnic groups. Many indigenous people are isolated from modern civilization and lack access to basic health and educational facilities. High rates of cholera, hepatitis B, malaria, and other diseases plague their communities.

The Constitution created three seats in the National Assembly for indigenous people and also provides for "the protection of indigenous communities and their progressive incorporation into the life of the nation." Nonetheless local political authorities seldom take account of the interests of indigenous people when making decisions affecting their lands, cultures, and traditions, or the allocation of natural resources. As farmers and miners intrude on their habitats, indigenous communities face deforestation and water pollution. Few indigenous persons hold title to their land, but many do not want to because most indigenous groups reject the concept of individual property. Instead they call on the Government to recognize lands traditionally inhabited by them as territories belonging to each respective indigenous group.

On August 9, at a meeting with indigenous representatives, Vice President Adina Bastidas announced the creation of a Presidential Commission for Assistance to Indigenous Peoples (see Section 4).

On April 17, a member of the Bare indigenous people in Amazonas state was left paralyzed when he was shot without provocation by a member of the National Guard, according to indigenous groups in the state (see Section 1.c.). These groups also allege that members of the National Guard, which controls the sale of gasoline in the state, withhold gasoline supplies and sell them at inflated prices to indigenous persons who require gasoline to operate their boats along the state's rivers.

On July 16, four members of the Pume indigenous people in Apure state were killed during an apparent effort to take control of the land they occupied, according to a Pume witness. The family of four--Cruz (age 50), Lorenzo (age 28), Ana Maria (age 25), and Rosa Maria Flores (age 9)--had returned from a hunting expedition and were eating when a group of eight nonindigenous persons armed with machetes and firearms attacked them. As of August, two persons had been arrested in connection with the killings.

In Bolivar state, the Pemon indigenous people remain highly skeptical of the Government's willingness and ability to comply with its pledges related to the completion of power lines through the Canaima National Park. In July 2000, a total of 55 of the 58 Pemon communities affected by the power lines signed an agreement with the Government that pledged to establish a commission for the demarcation of native lands and to create a development fund for indigenous people. The Government also promised not to undertake any further large infrastructure projects affecting the Pemon without consultation.

At year's end, the Government still had taken no action on President Chavez's 1999 pledge to enact a new law to regulate the use of the Imataca forest reserve in Bolivar state and annul a 1997 Presidential decree permitting the expansion of legal mining activities there. In 1998 the Supreme Court ruled against a lawsuit filed by environmental and indigenous organizations challenging the 1997 decree. The groups had charged that only the legislature may alter the nature of the reserve; that the public review process prior to the change was inadequate; and that expanded mining activities would affect adversely the health of the Warao, Arawako, Karina, Akawaio, and Pemon indigenous communities that inhabit the Imataca watershed area.

The Yanomami, among the most isolated of the indigenous people, have been subjected to persistent incursions into their territory by illegal gold miners, who have introduced both diseases and social ills. In 1996 a number of human rights organizations, acting on behalf of the Yanomami community of Haximu, petitioned the IACHR in connection with the 1993 massacre of 16 members of the community by Brazilian miners. The petition alleged that the Government failed in its obligation to protect the Yanomami and to seek appropriate punishment of the killers, who were released by the Brazilian authorities after 3 months' detention. In 1998 the Government agreed to work with the NGO's under IACHR mediation to resolve the case. In late 1999, in an out-of-court settlement the Government pledged, among other commitments, to provide better security and to carry out health care projects in the area. That settlement is being implemented.

Members of the Warao indigenous group of Delta Amacuro state continued to migrate during the year from their homelands in the swampy Orinoco delta to Caracas, where they live in the streets, selling handicrafts and begging. The Warao claim that flooding and petroleum exploration have eroded their traditional means of survival: fishing and horticulture. In addition, many Warao no longer want, or no longer possess, the knowledge required to survive in their traditional manner. However, the Caracas city government and the Metropolitan Police maintained a policy of forcing the Warao to return to the delta by rounding them up and loading them onto buses. In 1998, the last year for which estimates are available, they returned at least 15 groups averaging 100 Warao each. Many of the Warao nevertheless return to Caracas, citing lack of jobs and money in the delta and their ability to earn approximately \$175 (130,000 bolivars) per week in handouts in Caracas.

## Section 6 Worker Rights

### a. The Right of Association

Both the Constitution and the 1990 Labor Code recognize and encourage the right of workers to organize; however, concerns over labor rights continued during the year. According to the Constitution, all workers, without prejudice or need of previous authorization, have the right to form freely unions that they believe can help them defend their rights and interests, as well as the right to join--or refrain from joining--these organizations. The existing comprehensive 1990 Labor Code extends the right to form and join unions of their choosing to all private and public sector employees, except members of the armed forces. The Constitution provides that labor organizations are not subject to intervention, suspension, or administrative dissolution, and workers are protected against any discrimination or measure contrary to this right. Labor organizers and leaders may not be removed from their positions during the period of time or under the conditions in which they

exercise their leadership functions. However, Articles 23 and 95 of the Constitution, which provide for freedom of association, are contradicted by Article 293, which gives the National Electoral Council the authority to administer the labor confederations. During the year, the ILO's Committee on Freedom of Association recommended that the Government take measures to repeal or amend the trade union standards and decrees that are in violation of Conventions 87 and 98.

The ILO repeatedly expressed concerns that the 1990 Labor Code violates freedom of association by requiring a high number of workers (100 workers) to form self-employed workers' trade unions and a high number of employers to form employer trade unions (10 employers). The ILO also notes that the long and detailed list of duties assigned to workers' and employers' organizations and the requirement that foreign workers must be resident in the country for more than 10 years in order to hold trade union offices also violate the ILO Convention on Freedom of Association.

About 10 percent of the 10-million-member national labor force is unionized. One major union confederation (the CTV), three small union confederations, and a number of independent unions operate freely. The CTV represents most of the unionized workers and is especially strong in the public sector; its membership is approximately 800,000 workers. The CTV's top leadership includes members of several political parties, but the majority are affiliated with one of the traditional parties, Democratic Action or the Christian Democrats (COPEI). The CTV and the AD traditionally have influenced each other. The Bolivarian Workers Force (FBT), which was created to be a new labor confederation allied with the Chavez Government, is attempting to organize unions within the CTV and participated in the CTV internal elections.

In December 2000, after the Government held a public "workers referendum," the leaders of the CTV resigned and, during the year, elections were held to choose new union leaders.

In January an ILO delegation made the first of several trips to consult with the National Assembly on the development of a new labor law pursuant to the 1999 Constitution and also played an instrumental consultative role in overseeing the labor sector's multiunion dialog. This dialog on labor reform occurred among the country's unions, between independent organized labor and the Government, and between the Government and the ILO. The ILO also consulted regularly with government authorities on the labor reform process leading to individual union and federation leadership elections, and national-level CTV leadership elections. The CTV often accused the Government of interfering in its internal elections, and in March the ILO urged the Government to cease its harassment of the CTV, and to ensure that the authorities refrained from interference in the trade union electoral process. The ILO urged the Government to refrain from displaying favoritism with regard to the FBT and to abandon the idea of imposing trade union unity.

Throughout the year, the ILO also repeatedly expressed to the Government its objection to the 1999 Constitution's requirement that CNE administer labor leadership elections, which the ILO believes violates Convention 87 (freedom of association) of the ILO Charter. However, in practice CNE authorities took a broad interpretation of the requirement, allowing the individual union and federation elections to proceed uninterrupted under the authority of the CTV, and generally limiting its activities to an advisory role. Some 3,600 individual unions and 25 federations held their leadership elections between July and September. Although labor law pursuant to the 1999 Constitution remained pending at year's end, these elections marked a change from indirect to direct election of labor leaders. Despite accusations of fraud, the elections were held with few violent incidents, and most observers regarded this experiment in direct election of labor leaders as a success.

On October 23, the CTV held internal elections and on November 18, the CTV's electoral commission proclaimed Carlos Ortega the winner with about 57 percent of the vote. A number of independent monitors observed the elections; however, both sides lodged numerous protests of fraud. The Chavez Government, which had endorsed a FBT candidate, Artistobulo Isturiz, claimed that massive fraud had decided the election and refused to recognize Ortega as the winner; however, Ortega assumed the presidency of the CTV despite a threat by the Government to disqualify his election.

In March 2000, the National Legislative Committee (CLN) passed a decree that suspended collective bargaining in the petroleum and public sector for 180 days and suspended internal labor leadership elections for the same period of time. In March 2000, the CLN passed a decree that violated the Campesino Federation's right to associate freely by intervening in the federation's right to hold internal elections, embargoing federation property, and placing it in the custody of the national Ombudsman. The CNE eventually permitted elections, which were held in October.

The Labor Code mandates registration of unions with the Ministry of Labor, but it limits the Ministry's discretion by specifying that registration may not be denied if the proper documents (a record of the founding meeting, the statutes, and membership list) are submitted. Only a judge may dissolve a union, and only for reasons

listed in the law, such as the dissolution of a firm by agreement of two-thirds of the membership.

The Constitution and the 1990 Labor Code recognize the right of all public and private sector workers to strike in accordance with conditions established by labor law. However, public servants may strike only if the strike does not cause "irreparable damage to the population or to institutions." Replacement workers are not permitted during legal strikes. The 1990 Labor Code allows the President to order public or private sector strikers back to work and to submit their dispute to arbitration if the strike "puts in immediate danger the lives or security of all or part of the population." During the year, most strikes were brief and occurred among government employees such as petroleum workers, health workers in public hospitals and clinics, firefighters, teachers, and transportation workers.

In March FEDEPETROL, the country's largest petroleum worker union called a 48-hour strike. According to international labor authorities, approximately 65 percent of the workers participated. Ministry of Labor officials declared the action illegal. The strike was called by union leaders to force the Government to provide petroleum workers an equivalent 15 percent wage increase that had been granted to all private sector employees in 2000. The Government negotiated a settlement agreeable to the union. In December the CTV and the main business organization organized a national work stoppage to protest the President's use of legislation by decree (see Section 3).

There are no restrictions on affiliation with international labor organizations, and many union organizations are active internationally; however, a November 2000 Supreme Court ruling regarding the legal rights of NGO's that receive funding from foreign sources has the potential to restrict the international affiliations of union organizers (see Section 2.b.).

#### b. The Right to Organize and Bargain Collectively

According to the Constitution, all public and private sector workers have the right to voluntary collective bargaining and to arrive at collective bargaining agreements, without any additional requirements other than those established by the law. The Constitution provides that the Government is to ensure development of collective bargaining and to establish conditions favorable to collective relationships and the resolution of labor conflicts. The 1990 Labor Code stipulates that employers must negotiate a collective contract with the union that represents the majority of their workers. The ILO repeatedly expressed concerns that this provision restricts freedom of association and in March 2000 requested that the Government amend it so that "in cases where no union organization represents an absolute majority of workers, minority organizations may jointly negotiate a collective agreement on behalf of their members." The code contains a provision stating that wages may be raised by administrative decree, provided that the legislature approves the decree.

The law also prohibits employers from interfering in the formation of unions or in their activities and from stipulating as a condition of employment that new workers must abstain from union activity or must join a specified union. The Constitution prohibits measures that "alter the sanctity and progressiveness" of labor rights and worker benefits, declares labor rights to be irrevocable, and provides that ambiguities regarding the application or interpretation of norms are to be applied in the manner most favorable to the worker.

Ministry of Labor inspectors hear complaints regarding violations of these regulations and traditionally have been able to impose a maximum fine of twice the monthly minimum wage for a first infraction. Under the Constitution, union officials have special protection from dismissal. Under the 1990 Labor Code, if a judge determines that any worker was fired for union activity, the worker is entitled to back pay plus either reinstatement or payment of a substantial sum of money, which varies according to the worker's seniority.

Labor law and practice are the same in the sole export processing zone, located in Punto Fijo, Falcon state, as in the rest of the country.

#### c. Prohibition of Forced or Compulsory Labor

The 1990 Labor Code states that no one may "obligate others to work against their will," and such practices generally are not known to occur, although trafficking in women is a problem (see Section 6.f.). Apart from the general prohibition of compulsory labor, the law does not prohibit specifically forced and bonded labor by children, and such practices generally are not known to occur; however, there were reports of trafficking in children for employment purposes (see Section 6.f.).

#### d. Status of Child Labor Practices and Minimum Age for Employment

The 1990 Labor Code and the Tutelary Law for Minors contain provisions to protect children from exploitation

in the workplace. The Ministry of Labor and the National Institute for Minors enforce child labor policies effectively in the formal sector of the economy but less so in the informal sector, in which an estimated 1.2 million children work. According to UNICEF, approximately 47 percent of children are in the labor market, and they work in agriculture, as artisans, in offices, and in the services sector.

In a 1996 survey of working children conducted by the National Institute for Minors, 45 percent of those polled stated that they were not in school. The actual figure is probably much higher, considering that those who stated that they attended school also reported that they worked on average 7 1/2 hours per day, 4 to 7 days per week.

The 1990 Labor Code allows children between the ages of 12 and 14 to work only if the National Institute for Minors or the Labor Ministry grants special permission. It states that children between the ages of 14 and 16 may not work without the permission of their legal guardians. Minors may not work in mines or smelting factories; in occupations that risk life or health, or could damage intellectual or moral development; or in public spectacles. The Constitution prohibits adolescents from working in jobs that will affect their development.

Those under 16 years of age may by law work no more than 6 hours per day or 30 hours per week. Minors under the age of 18 may work only between 6 a.m. and 7 p.m. The estimated 1.2 million children who work in the informal sector, mostly as street vendors, generally work more hours than the total permitted under the law. In the 1996 National Institute for Minors survey of working children, half of the children worked both morning and afternoon, and 64.5 percent worked 6 or 7 days a week. The Government's Central Office of Statistics and Information reports that 12 percent of the country's children between the ages of 10 and 17 are working, have worked at some time, or are seeking work. Of that number, approximately 70 percent work in the informal sector of the economy. Less than 300,000 of children who work in the informal sector have permits.

Apart from the general prohibition of compulsory labor, the law does not specifically prohibit forced and bonded labor by children, but such practices generally are not known to occur; however, there were reports of trafficking in children for employment purposes (see Section 6.f.).

#### e. Acceptable Conditions of Work

The Constitution provides workers with the right to a salary that is sufficient to allow them to live with dignity, and provides them and their families with the right to basic material, social, and intellectual necessities; however, the minimum wage is not sufficient to provide a decent standard of living for a worker and family. The Constitution obliges the State to provide public and private sector workers with an annually adjusted minimum wage, using the cost of the basic basket of necessities as a reference point. Under the 1990 Labor Code, minimum wage rates are set by administrative decree, which the legislature may suspend or ratify but may not change. The law excludes only domestic workers and concierges from coverage under the minimum wage decrees. In July President Chavez announced that the Government would raise the minimum wage for public and private employees by 10 percent. Following the increase, which went into effect on July 12, the monthly minimum wage is \$220 (165,000 bolivars) in the private sector for urban workers, \$200 (150,000 bolivars) for employees of small and medium-sized companies, and \$198 (148,500 bolivars) for rural workers. The increase applied only to those already earning the minimum wage—about 15 percent of the labor force. Total take-home pay in the private sector, the product of a presidential decree, was at least equal to that received by public sector minimum wage workers. Fringe benefits that are added to these minimum figures generally increase wages by about one-third. However, even with these benefits, the minimum wage is not sufficient to provide a decent standard of living for a worker and family. Unions note that a worker's income is often less than the cost of basic monthly food a family of five, estimated by the Government's Central Office of Statistics and Information during the year at \$205 (153,750 bolivars). The basic basket, which includes medical care, transportation, clothing, and housing, in addition to food, totaled \$833 (625,000 bolivars) for August 2000. The Ministry of Labor has enforced minimum wage rates effectively in the formal sector of the economy, but about one-half of the population works in the informal sector where labor laws and protections generally are not enforced.

The Constitution stipulates that the workday may not exceed 8 hours daily or 44 hours weekly and that night work may not exceed 7 hours daily or 35 hours weekly. Managers are prohibited from obligating employees to work additional overtime, and workers have the right to weekly time away from work and annual paid vacations. Some unions, such as the petroleum workers' union, have negotiated a 40-hour week. Overtime may not exceed 2 hours daily, 10 hours weekly, or 100 hours annually, and may not be paid at a rate less than time-and-one-half. The Ministry of Labor effectively enforces these standards in the formal sector.

The Constitution provides for secure, hygienic, and adequate working conditions; however, the authorities by year's end had not promulgated regulations to implement the 1986 Health and Safety Law, which is not enforced. The delay is due largely to concern that the law provides penal sanctions against management when

violations of health and safety occur and that there is ambiguity in the law over what constitutes a violation. The Labor Code states that employers are obligated to pay specified amounts (up to a maximum of 25 times the minimum monthly salary) to workers for accidents or occupational illnesses, regardless of who is responsible for the injury.

The Code also requires that workplaces maintain "sufficient protection for health and life against sickness and accidents," and it imposes fines ranging from one-quarter to twice the minimum monthly salary for first infractions. However, in practice Ministry of Labor inspectors seldom close unsafe job sites. Under the law, workers may remove themselves from dangerous workplace situations without jeopardy to continued employment.

#### f. Trafficking in Persons

The Constitution prohibits trafficking in persons; however, there is no implementing law specifically for prosecution of all forms of trafficking in persons, and trafficking is a problem. Trafficking may be prosecuted under laws against forced disappearance and kidnaping (punishable by 2 to 4 years' imprisonment) and, in the case of children, under the 2000 Organic Law to Protect Children and Adolescents (which carries a penalty of 1 to 10 months in jail for trafficking in children). There were reports that Venezuela was a source, destination and transit country for trafficked men, women, and children during the year. However, no figures are available from either government or NGO sources, and it is difficult to gauge the extent of the problem; the authorities show little awareness of the problem. An underdeveloped legal framework, corruption among immigration authorities, and the ease with which fraudulent Venezuelan passports, identity cards, and birth certificates are obtained create favorable conditions for trafficking. However, there were no reports or evidence of involvement in trafficking by government officials, and the Government took steps this year to reduce corruption among immigration officials by replacing immigration inspectors at the Simon Bolivar International Airport in Maiquetia.

There were reports that women were trafficked to Spain for purposes of prostitution. There were also reports that children from other South American countries, especially Ecuador, were trafficked to work in Caracas as street vendors and housemaids (see Section 5). Chinese nationals trafficked to the United States via countries bordering Venezuela transit the country. The Ombudsman's office continues to investigate whether some of the children separated from their parents in the December 1999 flooding in Vargas state may have been trafficked (see Section 5). It also is believed widely that young women are lured from rural areas to urban centers by misleading newspaper advertisements promising domestic or other employment and educational opportunities; they then become victims of sexual exploitation. Organized criminal groups, possibly including Colombian drug traffickers, Ecuadorian citizens, and Chinese mafia groups, reportedly are behind some of these trafficking activities.

The Government did not prosecute any individuals for trafficking in persons during the year. Government efforts to prevent and prosecute trafficking, which are rare, are the responsibility of the Public Prosecutor's Family Protection Directorate and the National Institutes for Women and Minors. Female victims of trafficking have recourse to the Government's national system of women's shelters (see Section 5). NGO's such as CECODAP and the Coalition Against Trafficking in Women also are involved in activities to combat trafficking. There are no efforts or surveys planned or underway to document the extent and nature of trafficking in the country. However, in January the Government did provide some assistance to apparent victims of trafficking from various West African countries who landed on the coast of Sucre state. The group claimed that it had been abandoned at sea by a Turkish cargo ship that, for a fee, had brought them from Africa to find work in an undetermined country.